IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

Crl.MC.No. 480 of 2007()

CC.561/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT, OTTAPPALAM

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PETITIONER: ACCUSED

P.SAIDU, AGED 44, PAVATHODIKA HOUSE,
KOORIYAD POST, PAKKADAPRAYA,
THIRURANGADI, MALAPPURAM DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)
SRI.K.RAVI (PARIYARATH)

RESPONDENTS: STATE OF KERALA

THE STATE OF KERALA,
REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.480 of 2007

Dated this the 23rd day of February 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. The case against him has been numbered as C.C.No.561/05. The petitioner has not appeared before the learned Magistrate. He, therefore finds himself facing the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing him. The petitioner is willing to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. I find no merit whatsoever in the prayer to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier

appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have already been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006